



Linda S. Adams
*Secretary for
Environmental Protection*

California Environmental Protection Agency

Air Resources Board • Department of Pesticide Regulation • Department of Toxic Substances Control
Integrated Waste Management Board • Office of Environmental Health Hazard Assessment
State Water Resources Control Board • Regional Water Quality Control Boards



Arnold Schwarzenegger
Governor

Certified Mail: 7003 1680 0000 6174 8340

April 11, 2007

Mr. Richard Sanchez
Director of Environmental Health
Orange County Health Care Agency
1241 East Dyer Road, Suite 120
Santa Ana, California 92705

Dear Mr. Sanchez:

The California Environmental Protection Agency (Cal/EPA), Office of Emergency Services, Office of the State Fire Marshal, and the Department of Toxic Substances Control conducted a program evaluation of Orange County Health Care Agency's Certified Unified Program Agency (CUPA) on March 13 and 14, 2007. The evaluation was comprised of an in-office program review and a field oversight inspection. The State evaluators completed a Certified Unified Program Agency Evaluation Summary of Findings with your agency's program management staff, which includes identified deficiencies, with preliminary corrective actions and timeframes, program observations and recommendations, and examples of outstanding program implementation.

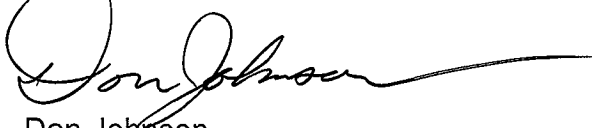
The enclosed Evaluation Summary of Findings is now considered final and based upon review, I find that Orange County Health Care Agency's program performance is satisfactory with some improvement needed. To complete the evaluation process, please submit Deficiency Status Reports to Cal/EPA that depict your agency's progress towards correcting the identified deficiencies. Please submit your Deficiency Status Reports to Jennifer Lorenzo every 90 days after the evaluation date. The first deficiency progress report is due on June 12, 2007.

Cal/EPA also noted during this evaluation that Orange County Health Care Agency has worked to bring about a number of local program innovations, including their effective integration and utilization of modern technology for a more efficient program, their excellent outreach program, and their Joint Powers Agreement of four hazardous materials units and all of the cities within the county to fund mutual aid response activities. In addition, Orange County Health Care Agency has shown remarkable improvement in determining and documenting violations and violation classification on their inspection reports since the previous evaluation. We will be sharing these innovations with the larger CUPA community through the Cal/EPA Unified Program web site to help foster a sharing of such ideas statewide.

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Thank you for your continued commitment to the protection of public health and the environment through the implementation of your local Unified Program. If you have any questions or need further assistance, you may contact your evaluation team leader or Jim Bohon, Manager, Cal/EPA Unified Program at (916) 327-5097 or by email at jbohon@calepa.ca.gov.

Sincerely,



Don Johnson
Assistant Secretary
California Environmental Protection Agency

Enclosure

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CERTIFIED UNIFIED PROGRAM AGENCY EVALUATION **AMENDED SUMMARY OF FINDINGS**

CUPA: Orange County Health Care Agency

Evaluation Date: March 13 and 14, 2007

EVALUATION TEAM

Cal/EPA: Jennifer Lorenzo and John Paine
DTSC: Mickey Pierce
OES: Fred Mehr
OSFM: Francis Mateo

This Summary of Findings includes the deficiencies identified during the evaluation, observations and recommendations for program improvement, and examples of outstanding program implementation activities. The evaluation findings are preliminary and subject to change upon review by state agency and CUPA management. Questions or comments can be directed to Jennifer Lorenzo at (916) 327-9560.

	<u>Deficiency</u>	<u>Preliminary Corrective Action</u>
1	The CUPA's annual self-audit report does not adequately depict a complete evaluation of the PAs. With a couple of exceptions, most of the PAs have not provided the CUPA with all the information requested and necessary to adequately evaluate the performance of the PAs. In addition, some of the information submitted does not sufficiently illustrate the activities of each of the PAs. Often, the information provided by the PAs does not address all the required elements, such as fee accountability, training activities, and a narrative summary of the inspection and enforcement activities of each program element. CCR, Title 27, Section 15280 (b) [Cal/EPA]	By September 30, 2007, the CUPA will ensure that all information submitted by the PAs is complete and consistent. The CUPA is encouraged to modify the PA's annual self-audit checklist to request for narrative summaries of the main topics, such as but not limited to their inspection and enforcement activities and fee accountability.
2	The CUPA and the PAs have not fully implemented a single unified inspection and enforcement program. For example, many of the PAs have not adopted the AEO enforcement tool. While the CUPA and four PAs have established an annual inspection frequency, the other six PAs inspect their businesses triennially. In addition, the plan addresses the CUPA's responsibilities and	By June 12, 2007, the CUPA will convene the Inspection and Enforcement Workgroup. By March 20, 2008, the workgroup will develop and implement an action plan for consolidating, coordinating and making consistent the inspection and enforcement program across all the UPAs, to the maximum extent feasible.

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	<p>does not adequately address the specific activities of the PAs.</p> <p>HSC, Ch. 6.11, Section 25404.2 (a)(3) and (4) and CCR, Title 27, Section 15200 (f)(1)(G) and (2) [Cal/EPA]</p>	<p>By July 1, 2008, the CUPA in conjunction with the PAs will revise their Inspection and Enforcement plan to reflect the specific activities of both the CUPA and the PAs.</p>
3	<p>The CUPA does not adequately ensure that all PA staff is receiving relevant on-going training. The CUPA has no documentation of on-going training for half of its PAs. Additionally, the PAs using their Engine Companies to conduct inspections have not provided training documentation to the CUPA.</p> <p>CCR, Title 27, Section 15180(a)(2)(C) [Cal/EPA]</p>	<p>By September 30, 2007, the CUPA will obtain records of on-going training for all PA inspectors, including Engine Company inspectors, and ensure that on-going training requirements are being met.</p>
4	<p>The CUPA is not always ensuring that return to compliance documentation is provided within the 30 days allowed for minor violations or other timeframes provided by the inspector. Of the 18 files reviewed, five had violations noted that were not corrected within the timeframes provided for correction.</p> <p>CCR, Title 27, Section 15200(b)(1) [DTSC]</p>	<p>By May 13, 2007, the CUPA will remind staff to either provide the developed Return to Compliance documents or to ensure that re-inspections are scheduled within a reasonable timeframe.</p>
5	<p>The CUPA is not consistently classifying violations in a manner consistent with the definition of a Class I violation. Of the 18 files reviewed, the following two files contained violations which the reviewer felt were misclassified or improperly reclassified based on non-compliance:</p> <ol style="list-style-type: none"> 1. Edwards Lifescience notes the storage greater than allowed timeframes as a minor violation. 2. Anodyne Inc notes that a Class II violation has not been corrected. This was noted in re-inspections in August and October 2005 and February 2006. <p>CCR, Title 27, Section 15200(b)(1) and CCR, Title 22, Section 66260.10 [DTSC]</p>	<p>By June 13, 2007, the CUPA will remind staff of the definition of Class I violations and for the need to elevate the classification of violations in instances of repeated failures to comply.</p>

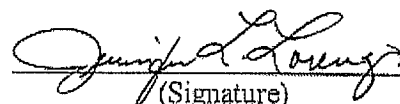
CUPA Representative

Denise Fennessy
(Print Name)


(Signature)

Evaluation Team Leader

JENNIFER L. LORENZO
(Print Name)


(Signature)

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PROGRAM OBSERVATIONS AND RECOMMENDATIONS

The observations and recommendations provided in this section address activities the CUPA is implementing and/or may include areas for continuous improvement not specifically required of the CUPA by regulation or statute.

1. **Observation:** The CUPA's inspection report did not note or record a consent to inspect the facility.

Recommendation: While the CUPA is working towards incorporating electronic signature capabilities to their tablet PCs for on-site inspections, the CUPA is encouraged to include a consent statement on the inspection report (such as within the comments section on the tablet PCs). In the event that a formal enforcement action is necessary, the consent to inspect will validate the inspection and strengthen violation(s) made against the regulated facility.

2. **Observation:** The CUPA has a single fee collection rate of approximately 94%, 95%, and 100% for the last three fiscal years.

Recommendation: None. The CUPA is able to collect its fees at a high rate and is encouraged to continue to do so.

3. **Observation:** The CUPA meets or exceeds the mandated inspection frequency for the business plan, CalARP, and UST program elements for the last three fiscal years. In addition, the CUPA meets the inspection frequency per the CUPA's Inspection and Enforcement Plan for other Unified Program elements within the last three fiscal years.

Recommendation: None. The CUPA is encouraged to continue to inspect all regulated businesses per the mandated inspection frequency and Inspection and Enforcement Plan.

4. **Observation:** During a review of the files, the following information was noted by the DTSC reviewer:
 - a. Air Industries (Garden Grove): The recyclable materials report for the waste (Castrol 205 Cutting oil) indicates that the applicable exemption is HSC 25143.2(e)(7)(B). The correct exclusion is HSC 25143.2(c)(2).
 - b. MS Bellows (Huntington Beach): The inventory for the site notes a cobalt containing waste as coming from a cyanide plating process. If the cobalt solution is used to electroplate a simulated brass finish on parts, it should carry an F006 waste designation and not solely the non-RCRA waste code 121 indicated.
 - c. Tiodize (Huntington Beach): The Tiered Permit application and inspection reports indicate that the treatment unit is operating under the Conditional Authorization tier but lists treatment of a chrome-containing waste by both chrome reduction and pH adjustment. If the waste is hazardous for both chrome content and pH, the correct tier is Permit-By-Rule (PBR).

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- d. ITT Cannon (Santa Ana): In response to a Summary of Violations, a tank certification was submitted by ITT Cannon. The tank certification noted in the file is incomplete. Reviewer was unsure if the submitted documents were the entire tank certification or just a portion noted as missing.

Recommendation: The CUPA staff is encouraged to confirm and verify the above issues during the next inspection(s).

- 5. **Observation:** The CUPA's AEOs contain corrective action language that directs a respondent to correct violations "immediately." Additionally, penalty language used does not reference the full penalty calculated.

Recommendation: The CUPA may be better served by defining correction timeframes as "As of the effective date of this order" or "Within one day of the effective date of this order." Additionally, the full amount of calculated penalty may be referenced in the order to ensure full payment if other negotiated conditions are not met. DTSC will provide examples of language to the CUPA for consideration.

- 6. **Observation:** The CUPA is settling most of its AEO cases for penalties below that of the DTSC's generally assessed values, but within the parameters for determining and assessing penalties as set forth in regulation.

Recommendation: None. The observation is provided to remind the CUPA that it is the policy of the DTSC to ensure that penalties are effective deterrents to non-compliance and provide a reminder to industry as a whole that non-compliance carries additional weight.

- 7. **Observation:** DTSC has not received the CUPA's RCRA LQG Quarterly reports for third or fourth quarters of calendar year 2006.

Recommendation: DTSC would appreciate the CUPA's continued submittal of RCRA LQG inspection information. In the past, the CUPA has regularly submitted such information.

- 8. **Observation:** The number of routine inspections that have returned to compliance within established standards, as reported on the Annual Inspection Summary Report (Report 3) indicates that only 11% of generators and 16% of RCRA Large Quantity Generators (LQGs) (over the past three fiscal years) have returned to compliance within timeframes. However, review of the files showed that approximately 72% of facilities have returned to compliance within established timeframes.

Recommendation: The CUPA is encouraged to revise the data query used to extract and report this information to improve the quality of data reported.

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9. **Observation:** Some PAs maintain files in separate locations within their office. For example, inspection reports were filed in a separate location from the business plan files.

Recommendation: The PAs are encouraged to consolidate their files in one location or include a copy of the inspection reports with the business plan files.

10. **Observation:** Costa Mesa, City of Orange, Garden Grove, and Santa Anna have the old OES spill notification number.

Recommendation: The new number is (916) 845-8911.

11. **Observation:** Some PAs have strong implementation and knowledge of the fire codes with limited business plan enforcement capabilities.

Recommendation: The CUPA is encouraged to train or ensure that new firefighters receive the appropriate training, including on-going training, on the Business Plan and Emergency Response.

EXAMPLES OF OUTSTANDING PROGRAM IMPLEMENTATION

1. The CUPA was voted an outstanding CUPA in 2005 for their innovative use of technology. The CUPA has hired highly proficient personnel and acquired new software and hardware to increase capabilities in data management and information processing in the field. As such, the effectiveness of implementing the program has increased and their data management is excellent. The CUPA's inspectors use tablet PCs with touch-screen and remote transmission capabilities. The tablet PCs enable the inspectors to access at least two years worth of data, including correspondences, previous inspections, violations and/or return to compliance dates. The tablet PCs allow more time for inspectors to conduct field inspections instead of entering data manually onto a computer database at the office. Their use of the tablet PC has made data information transfer and updating of files even during field work an efficient and effective process. The CUPA also provides portable and lightweight printers for the inspectors' use enabling them to issue the inspection report at the conclusion of each inspection. In addition, the CUPA continually aims to improve their resources by adding voice-recognition features and signature and text-writing capabilities to their tablet PCs.
2. The CUPA maintains exceptional communication with all PAs and is proactive in ensuring coordination with all the PAs. The CUPA and the PAs hold quarterly meetings to address issues and endeavor to improve their programs. A total of four PAs have entrusted the CUPA to oversee their CalARP program since 2003. Moreover, the CUPA meets annually with the Fire Departments to review potential new CalARP facilities. In addition, the CUPA conducted an AEO workshop training to its PAs and other appropriate personnel, including city attorneys, in March 2006.
3. The CUPA has an excellent outreach program. They continually improve their communications with their regulated business community by having quarterly Business Advisory Workgroup meetings to address the needs of the businesses and any pressing issues to improve service and attain compliance from all the regulated businesses.

The CUPA has a website with an extensive wealth of information for its community. In addition, the CUPA provides annual training of various as-needed topics to businesses; for example, in November 2005, the CUPA hosted a hazardous waste workshop that was attended by over 85 business owners.

The CUPA has developed many informational tools for distribution to its regulated businesses. Examples include universal waste recycling information and packaging, use of the AEO process (July 2005 "CUPA Connection"), pollution prevention information (various "CUPA Connection" editions), and the annual "CUPA Connection" newsletter which is sent out with the annual program invoices. The CUPA has an automated survey in place in order to improve their programs and provide better services to the regulated community. The survey can be done by hard copy or electronically.

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Additionally, the CUPA has participated with DTSC's Pollution Prevention staff on evaluating the effectiveness of pollution prevention efforts at select Orange County LQG sites.

4. In the past, the CUPA used CAMEO, a computer software for first responders to deal with hazardous material emergency responses. The City of Santa Ana is currently using a new hazardous materials disclosure software and has received great reviews on it. The new software allows regulated businesses to submit their chemical inventory information online; the data and any updated information are readily available for responders in a wireless capacity, allowing responders to have the most current information. Currently the county is evaluating the new software. The CUPA plans to adopt it by fiscal year 2007-2008 and has recommended the other PAs to also consider adopting the new software.
5. The CUPA has shown remarkable improvement in the determination and documentation of violations and violation classification in the inspection reports since the previous evaluation. The CUPA issued reports or summary of violations that indicate the specifics of each violation, corrective actions to be taken, the timeframes for correction, and the class of violation. Only one of eighteen files reviewed was missing a timeframe for correction, and the majority of the corrective actions required submittal of information by the facility for confirmation of correction (especially for Class II violations).
6. Since implementing the AEO process in February 2005, the CUPA has been active in using this enforcement tool, achieving settlement of eight cases. The CUPA has taken a fair and balanced approach to informing businesses of the requirements of enforcement by sending a letter to businesses announcing the adoption of the AEO process, as well as by publishing general information about settlements in annual newsletters to demonstrate that it will be used.
7. The CUPA has developed good tools to assist the inspectors in ensuring complete inspections are conducted. Examples include a tank secondary containment or Professional Engineer Certification checklist, checklists built into the Field Identification System, and a list of items to be checked during RCRA LQG inspections. Additionally, the CUPA ensures thorough inspections of RCRA LQGs, LQGs and Tiered Permit facilities are conducted by an inspection team, which is comprised of at least a Supervising Hazardous Waste Specialist and a Hazardous Waste Specialist.
8. The CUPA is expending more than 5% of its hazardous waste related time to the regulation of silver-only generators and universal waste regulation. Universal waste issues are checked during all hazardous waste inspections. Compliance assistance was developed for low volume universal waste generators and silver-only generators are surveyed and offered compliance assistance triennially.
9. The CUPA has undertaken a project to compare its identified number of regulated businesses against the number of active EPA ID numbers in DTSC's Hazardous Waste Tracking System (HWTS). After reconciliation, inspectors have been provided with lists of unconfirmed EPA ID numbers to verify while in the field on routine activities. HWTS

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shows a universe of 9,957 active EPA ID numbers, while the CUPA reports a universe of 6,086 generators.

10. The CUPA has implemented the door-to-door PBR program in eight cities within their county.
11. The Joint Powers Agreement with the four hazardous materials units and all cities in Orange County is an innovative solution for funding mutual aid response activities above the normal response.